

NOT RECOMMENDED FOR PUBLICATION

No. 24-1086

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Feb 22, 2024

KELLY L. STEPHENS, Clerk

ORDER

Before: MOORE, STRANCH, and BUSH, Circuit Judges.

This matter is before the court upon initial consideration of appellate jurisdiction.

Owen W. Barnaby filed a civil action challenging foreclosures on his properties. He also filed several motions for entries of default judgment against the defendants. On February 1, 2024, the district court denied Barnaby's request for entries of default. Barnaby has filed a notice of appeal. In this court, he has filed a motion for a stay of the district court's orders pending appeal. Defendant Berrien County, Michigan, has filed a response and cross-motion to dismiss the appeal for lack of jurisdiction.

This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291, and certain interlocutory orders and collateral orders, 28 U.S.C. § 1292. *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545–46 (1949); *see also Anderson v. Roberson*, 249 F.3d 539, 542–43 (6th Cir. 2001). An order is final and appealable when it “ends the litigation on the merits and leaves

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nothing for the court to do but execute the judgment.” *JPMorgan Chase Bank, N.A. v. Winget*, 920 F.3d 1103, 1105 (6th Cir. 2019) (quoting *Gnesys, Inc. v. Greene*, 437 F.3d 482, 485 (6th Cir. 2005)).

An order denying a motion for default judgment is not a final judgment because it does not end the litigation. Nor is an order denying a motion for default judgment immediately appealable. *McNutt v. Cardox Corp.*, 329 F.2d 107, 108 (6th Cir. 1964) (per curiam). Accordingly, this court lacks jurisdiction over this appeal.

The motion by Berrien County is therefore **GRANTED** and the appeal is **DISMISSED**. Barnaby’s pending motion for a stay is **DENIED** as moot.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens
Kelly L. Stephens, Clerk

United States Court of Appeals for the Sixth Circuit

U.S. Mail Notice of Docket Activity

The following transaction was filed on 02/22/2024.

Case Name: Owen Barnaby v. MI, et al

Case Number: 24-1086

Docket Text:

ORDER filed - The motion by Berrien County is therefore GRANTED and the appeal is DISMISSED. Barnaby's pending motion for a stay is DENIED as moot. No mandate to issue, decision not for publication. Karen Nelson Moore, Jane Branstetter Stranch, and John K. Bush, Circuit Judges.

The following documents(s) are associated with this transaction:

Document Description: Order

Notice will be sent to:

Owen W. Barnaby
P.O. Box 1926
Kennesaw, GA 30156

A copy of this notice will be issued to:

Ms. Ann E. Filkins
Mr. Thaddeus Jeremiah Hackworth
Ms. Emily Jenks
Mr. Theodore Seth Koches
Ms. Kimberly K. Pendrick
Mr. Thomas J. Rheaume Jr.